Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
WILLIAM F. CROWELL	)	WT Docket No. 08-20
	)	
Application to Renew License for Amateur Radio Service Station W6WBJ	)	FCC File No. 0002928684
	)	
	)	

To: Marlene H. Dortch, Secretary
Attn: Chief Administrative Law Judge Richard L. Sippel

ENFORCEMENT BUREAU'S RESPONSE TO *ORDER*, FCC 17M-11

On March 28, 2017, the Presiding Judge issued *Order*, 17M-11, directing the parties to file copies of six letters identified in the Hearing Designation Order[1] for the above-captioned proceeding on the Commission's Electronic Comment Filing System (ECFS) by April 5, 2017.[2] Pursuant to this *Order*, the Acting Chief of the Enforcement Bureau (Bureau), through his attorneys, hereby submits the following documents requested by the Presiding Judge:

1. August 21, 2000 letter from W. Riley Hollingsworth to Mr. Crowell;
2. November 28, 2000 letter from W. Riley Hollingsworth to Mr. Crowell;
3. May 15, 2006 letter from W. Riley Hollingsworth to Mr. Crowell;
4. June 10, 2006 letter from Mr. Crowell to W. Riley Hollingsworth;
5. September 20, 2006 letter from W. Riley Hollingsworth to Mr. Crowell; and
6. April 3, 2007 letter from W. Riley Hollingsworth to Mr. Crowell.

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[1] *See In re William F. Crowell*, Hearing Designation Order, WT Docket No. 08-20, DA 08-361 (rel. Feb. 12, 2008).

[2] *See Order*, FCC 17M-11 (ALJ, rel. Mar. 28, 2017).

Respectfully submitted,

Michael Carowitz
Acting Chief, Enforcement Bureau

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March 29, 2017

#76

FEDERAL COMMUNICATIONS COMMISSION
Gettysburg, PA 17325-7245

August 21, 2000

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Mr. William F. Crowell
1110 Pleasant Valley Road
Diamond Springs, CA 95619

RE: Amateur Radio license N6AYJ

Dear Mr. Crowell:

Monitoring information before the Commission indicates that you have engaged in deliberate interference to communications in progress on 3.820, 3.830 and 3.857 MHz in the last several months. This interference consists of unsolicited and unwanted comments and responses to the ongoing communications. Such communications have occurred even though your transmissions were not acknowledged, and in some cases even after you were requested to refrain from doing so. In a conversation with me regarding this matter earlier this year, you stated that the problems with the operators had been resolved and gave your assurance that you would stop such attempts at forcing communications with the other stations.

Please be advised that such conduct degrades the Amateur Radio Service for legitimate communications, is contrary to Section 97.1 of the Amateur rules and is considered deliberate interference.

Section 308(b) of the Communications Act of 1934, as amended, 47 U.S.C. Section 308(b), give the Commission the authority to obtain information from applicants and licensees regarding the operation of their station. You are requested, pursuant to Section 308(b), to respond to this letter within 20 days from the above date and state what actions you are taking to eliminate this type of interference.

If you have any questions about this matter, you may call me at 717-338-2502.

Sincerely,

W. Riley Hollingsworth
Special Counsel, Enforcement Bureau

FEDERAL COMMUNICATIONS COMMISSION
Gettysburg, PA 17325-7245

November 28, 2000

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Mr. William F. Crowell
1110 Pleasant Valley Road
Diamond Springs, CA 95619

RE: Amateur Radio license N6AYJ
Warning Notice

Dear Mr. Crowell:

On August 21, 2000 we issued a warning notice to you concerning deliberate interference to ongoing communications on 75-Meter Amateur frequencies. You responded on August 31, 2000. Your response was not only irrelevant to the issue concerning interference, but frivolous as well. You are again cautioned that imaginary, make-believe or fictitious conversation with communications in progress constitutes interference and degrades the service for legitimate users. Please review Section 97.1 of the Commission's rules. That rule outlines the basis and purpose of the Amateur Radio Service.

Sincerely,

W. Riley Hollingsworth

W. Riley Hollingsworth
Special Counsel
Enforcement Bureau

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Spectrum Enforcement Division
1270 Fairfield Road
Gettysburg, Pennsylvania 17325-7245

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 15, 2006
CERTIFIED MAIL—RETURN RECEIPT REQUESTED

William F. Crowell
1110 Pleasant Valley Road
Diamond Springs, CA 95619

RE: Amateur Radio Advanced Class W6WBJ; Renewal and Vanity Call Sign Application
Case # 2006-176

Dear Mr. Crowell:

On April 11, 2006, the Wireless Telecommunications Bureau granted in part your application for vanity call sign W6WBJ. Ordinarily the granting of a vanity call sign application results in a new ten year term, but, due to numerous complaints filed against the operation of your station N6AYJ alleging deliberate interference, the expiration date of March 12, 2007 was not extended. The matter has been referred to the Enforcement Bureau for review.

The matters raised in the complaints must be resolved in order for your license to be renewed. Copies of those complaints are being sent to you under separate cover pursuant to your Freedom of Information Act (FOIA) request. Additionally, two complaints are enclosed with this letter. Section 308(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 308(b), gives the Commission the authority to obtain information from applicants and licensees regarding the operation of their station and their qualifications to retain a Commission license. Accordingly, you are requested to fully address, within 30 days of receipt of this letter, each complaint forwarded to you pursuant to the FOIA and the complaints enclosed with this letter. In a letter of this type we are required to advise you that Congress has made punishable a willfully false or misleading reply. See 18 U.S.C. § 1001.

The information you submit will be used to determine what action to take on your renewal. If this matter is not resolved, your application will be designated for a hearing before an Administrative Law Judge to make a decision whether your Amateur license should be renewed. As an applicant, you would have to appear at a hearing in Washington, DC, and would have the burden of proof in showing that you are qualified to retain an Amateur license.

Sincerely,

W. Riley Hollingsworth
Special Counsel

Enclosures
Cc: FCC Western Regional Director

1110 Pleasant Valley Road
Diamond Springs, California 95619-9221
(530) 622-3386

CERTIFIED MAIL

June 10, 2006

W. Riley Hollingsworth, Special Counsel
Federal Communications Commission
Spectrum Enforcement Division
1270 Fairfield Road
Gettysburg, Pennsylvania 17325-7245

Re: Amateur Call Sign W6WBJ; renewal of vanity call; Case # 2006-176

Dear Mr. Hollingsworth:

This is my response to your May 15, 2006 letter (with attachments) and Mr. Casey's May 16, 2006 letter (and its attachments and the accompanying Compact Disk) concerning my FOIA request. I appreciate the opportunity to resolve these complaints, pursuant to 47 CFR §§ 1.945(e) and 97.27(b). Please let me assure you that, since the complaints are essentially without merit, I don't really consider this to be an adversarial proceeding and I therefore intend to be completely candid with you herein.

I have made a good-faith investigation into the exact boundaries of Amateurs' free-speech rights when using Amateur radio. To the extent, if any, that the complainants object to the substantive nature of my speech, the complaints would violate my free speech rights under the First Amendment unless my transmissions violated Title 47 CFR §97.113 or some other specific provision of 47 CFR, Part 97 (hereinafter "Part 97").

It would be incorrect, for example, to argue that Sec. 97.1 of Part 97 (the "Basis and Purpose" section) might be used as a substantive limitation on what Amateurs can say on the radio. This is because Sec. 97.113 says that only specific provisions of Part 97 provide the basis for Rules violations, and that only transmissions specifically prohibited by §97.113 or elsewhere in Part 97 are actionable by the Commission. Consequently, the rather vague and general language of §97.1 cannot, and does not, contradict the quite specific language of §97.113.

Indeed, §97.1 has remained unchanged since it was first enacted in the 1951 amendments to the Rules. In 1988 rule making proceedings (FCC PR Docket No. 88-139), various persons proposed additions to the "bases and purposes" rule, but the Commission rejected them and ruled that §97.1 would remain unchanged; that is, that all subjects of discussion are permissible in the Amateur service and that "no area of knowledge is now prohibited [for discussion] under the present principles of basis and purpose." The Commission went on to conclude in those 1988 Rulemaking proceedings that "No purpose would be served, therefore, by revising the principles that have stood for nearly four decades as the general statement of objectives for the Amateur service in the United States" (Par. 16). Since nothing further has been heard from the Commission on this subject since those Rulemaking proceedings, Sec. 97.1 would appear to remain unchanged to this day. Therefore, Amateurs can discuss anything they want on the ham radio, so long as it does not violate §97.113 or any other specific provision of Part 97.

Before proceeding to discuss the specific complaints, please allow me to cite what I feel to be the other applicable statutes and regulations determining the nature and extent of radio amateurs' free-speech rights. In this regard, it must be remembered that the amateur service is the only radio service that is strictly *non-remunerative* in nature [§97.113(a)(3)]; that is *prohibited* from broadcasting [§97.113(b)]; *and* that does *not* receive an exclusive frequency assignment as part of the license grant [§97.101(b)]. These three special features of the amateur service mean that the statutes and regulations that apply to broadcasting licensees simply don't apply to ham radio.

Even though I don't think you are alleging that I said anything obscene or indecent, amateur radio free-speech rights cases most often arise in the context of alleged on-the-air obscenity. These cases are nevertheless relevant herein because if, as I believe, the law will not even permit the Commission to regulate alleged obscenity spoken by ham radio operators, a fortiori the Commission cannot regulate the content of amateur's speech that is *not* obscene.

Of course §326 of the Act prohibits both censorship and the use of obscene, profane or indecent language by means of radio communication, but its terms are obviously self-contradictory; it fails to define those terms and it provides neither an enforcement mechanism nor prescribes a penalty, so in order to clarify the issue we must turn to decisional law that interprets §326 and the other obscenity statutes. And, of course, §97.113(a)(4) appears, on its face, to prohibit the use of "obscene or indecent words or language" in the amateur service. However, the specific obscenity statutes (e.g., 18 USC § 1464), pursuant to which §97.113(a)(4) was promulgated and with which it must comply, all define the offense as "*broadcast* obscenity". Under the statutes, a *broadcast* is required by the very definition of the offense, and it is made an element of its commis-

sion.

The Courts and the Commission have repeatedly said that the Commission's obscenity standards apply to the *broadcast* media [FCC v. Pacifica Foundation 438 U.S. 726 (1978); Action for Childrens' Television v. FCC 852 F.2d 1332, at 1339 (D.C. Cir. 1988) and Infinity Broadcasting Corp. of Pennsylvania 2 FCC Record 2705 (1987); yet the Commission apparently ignored the "broadcast" requirement when it issued its May 5, 1987 policy statement concerning indecent radio transmissions in the amateur service (52 Federal Record 16386). Hams, of course, are *prohibited* from broadcasting under 47 CFR §97.113(b).

The case of Lafayette Radio Electronics Corp. v. U.S. 345 F.2d 278 (2nd Cir. 1965) doesn't apply here, because the rationale used in Lafayette Radio to regulate citizen's banders' free-speech rights was that there were many licensees and few available frequencies, so "if everybody could say anything, many could say nothing" [id. at p. 281, relying on National Broadcasting Co. v. U.S. 319 U.S. 190, 226 (1943)]. Exactly the opposite is true in amateur radio. There are relatively fewer licensees, many more available transmitting channels, lots of frequencies are empty (especially on 75 meters) and if one does not like what he hears, he can simply "spin the dial".

And although in Gross v. F.C.C. 480 F.2d 1288 (1973) the 2nd Circuit relied on Lafayette Radio in rejecting a challenge to 47 CFR §97.114(c) (prohibiting business communications on amateur radio), Gross is also inapplicable due to the inherent differences between specifying what is a business communication and what is obscene or indecent.

Now I will admit that the decision in Reston v. FCC 492 F.Supp.697 (1979) does not help my position, even though it was really only a Freedom of Information Act ("FOIA") case, but I think it was wrongly decided and I would like to tell you why.

Reston was a reporter who wanted to obtain the Commission's tapes, under the FOIA, of the "Peoples' Church" QSOs between the Church's Jonestown and San Francisco ham radio stations. The Commission argued that FOIA disclosure was exempt under 5 USC §552(b)(3), the FOIA's "deferral to other statutes" provision, in that another statute, 47 USC §605, contains an exemption from disclosure for "broadcasts to the general public". In support of this contention, the Commission rather disingenuously argued to the U.S. District Court that amateurs make broadcasts, and that the recordings were therefore exempt from disclosure, and the Court bought that argument. However, it is incorrect. I do not believe the Plaintiff's attorneys briefed the issue properly in Reston because they did not wish to litigate any ham radio issues, they had no background in Part 97 and they had no interest in proving that hams do not broadcast. Reston is, if you will pardon my

saying so, a somewhat shameful example of "outcome-based judging" by the Commission, which is one of my pet peeves. There has been a lot of outcome-based judging by the ALJs in amateur cases, in my opinion, and few if any hams appeal their cases to the Review Board, the full Commission or the federal courts because hams are simply unwilling to spend the necessary amount of money to vindicate their free-speech rights in a non-pecuniary radio service. I certainly hope I will be able to be different in this regard, however, and I just wanted to let you know that I assign no credence to the Reston case because I think it was clearly wrongly decided, and I just don't understand how the Commission could properly have told the District Judge therein that hams engage in broadcasting.

The Supreme Court case of Red Lion Broadcasting Co. v. F.C.C. 395 U.S. 367 (1969) makes it clear that the *only* permissible rationale for the Commission to regulate the free speech of its licensees is that it is a quid pro quo for the grant of a valuable monopoly franchise to the licensee:

> "Otherwise, station owners and a few networks would have unfettered power to make time available only to the highest bidders, to communicate only their own views on public issues, people and candidates, and to permit on the air only those with whom they agreed. There is no sanctuary in the First Amendment for unlimited private censorship operating in a medium not open to all." (Id. at p. 373.)

The Red Lion rationale is clearly inapplicable to amateur radio. First, as a matter of law the license grant has *no* inherent value because 47 CFR §§97.113(a)(2) and (3) specifically provide that the amateur service is to be strictly non-pecuniary in nature. Next, no monopoly franchise or exclusive frequency assignment accompanies a license grant in the amateur service; instead, hams must *share* the use of their assigned frequencies. 47 CFR §97.101(b). Further, to the extent the license grant contains *any* inherent value whatsoever, that value accrues to the U.S. government, not the amateur licensee, because hams help the government for free by providing communications during disasters. Next, the analogy to the broadcasting cases fails because there is no clear "broadcaster" and "listener" in the amateur service, since every amateur is both a "broadcaster" [apologies to 47 CFR §97.113(b)] and a "listener". And last, since any citizen can obtain a ham radio license from the Commission, the amateur service is obviously "open to all".

In addition to being illegal, it is fundamentally unfair for the Commission to try to impose its values on radio amateurs by trying to regulate their free speech rights. For example, take the case of David Hildebrand, N6BHU. He uttered some words over a Los Angeles area repeater in 1981 that are quoted at length by the Commission. His words sound fairly tame in comparison to those commonly spoken on the ham radio bands today, in

the use of which the Commission appears to have acquiesced. Apparently the standard of public decency has changed substantially over the last 25 years. Yet Mr. Hildebrand lost his license. (In today's world, Mr. Hildebrand would also have faced a stiff Notice of Apparent Liability.) Why should this be true? If standards of public decency are so changeable, they are too vague to be permitted to limit free-speech rights in a non-broadcast, non-pecuniary radio service. (The case history in Hildebrand was that the Review Board found the obscenity statutes don't apply to ham radio (92 FCC Reports 1241), but the Commission reversed the Review Board (2 FCC Record Vol. 9, p. 2708). Prominent ham and Senator Barry Goldwater, K7UGA, wrote to Commission Chairman Fowler, urging that Hildebrand's license be revoked, but the Commission denied that this ex parte contact influenced its decision and denied Hildebrand's motion to dismiss.

In Hildebrand (2 FCC Record Vol. 9, at 2709-2710), the Commission attempts to explain why it thinks that, for obscenity purposes, amateur radio is more like a broadcast medium than the "private, two-way conversation that the Supreme Court in Pacifica distinguished from broadcasting". In my opinion, its attempt fails. First of all, the Commission seemed to think ham radio consists solely of repeater operation, but that is not true. Second, the Commission failed to consider the implications of its decision under Red Lion. The power to regulate licensees' speech under Red Lion is necessary before the Pacifica issues even arise. In short, Hildebrand represents just the sort of outcome-based decisionmaking that I abhor.

For the foregoing reasons, the Commission has no more right to regulate the content of amateurs' speech than it has to regulate the speech of a man standing on a soap box on the street corner. And, I must add, I find it profoundly discouraging that the agency charged by Congress with the authority to regulate the amateur radio service will deliberately take the position (when it thinks a ham has talked too long) that hams are prohibited from broadcasting under §97.113(b), but then will turn right around and tell an ALJ or a court that amateur transmissions *are* broadcasts when the Commission wants to prevent FOIA disclosure, or when it wants to apply the obscenity statutes to radio amateurs. Obviously, the Commission can't have it both ways, and it seems rather foolish and shortsighted to me that the Commission would apparently believe that nobody is ever going to point out to a court its obvious duplicity on the issue.

Of course, the other provisions of Part 97 (besides §97.113) impose a great number of station operating requirements upon the radio amateur, but none of them potentially impacts an Amateur's free speech rights except §97.101(d), which prohibits willful or malicious interference. [Section 97.113(a)(4) prohibits communications intended to facilitate a criminal act, and messages in codes or ciphers intended to obscure their meaning, but I do not believe any such acts are alleged herein.] Sections 97.101(d) and

97.113 are therefore the only two Rules in issue herein; i.e., if I violated neither of these sections, then no violation of Part 97 appears because no other sections of Part 97 apply.

1. May 3, 2006 email with the subject "radio operator complaint (HF band)", alleging harassment and interference by me, "N6UQA (Jim)" and W5DWI:

The complainant is completely incorrect. I don't harass anyone.

There is nobody named Jim whose call sign is N6UQA. In fact, N6UQA doesn't participate in our QSOs and I don't think his name is Jim. According to QRZ.COM, it appears that N6UQA is probably a female licensee.

W5DWI is one of the nicest people you would ever meet. He's a retired military man, very intelligent, kind and considerate, and we have very enjoyable conversations on 3840 kHz late at night. W5DWI would never argue with anyone, let alone harass them.

I never play music on the air because I value my Amateur license, and I didn't play music in this instance.

And to characterize my attempt to make conversation as "diatribe" shows the complainant's animus and lack of credibility.

The Complainant is just totally wrong. Therefore I do not believe that any violation of Part 97 can be proved from item 1.

2. April 26, 2005 email with subject of "BILLY CROWELL W6WBJ ex N6AYJ":

This is a rehash of a dispute that began in 1998 when Orv Dalton, K6UEY, claimed he had the right to run anyone he didn't like off of 3830 KHz. Through intimidation and coercion of inexperienced amateurs, who had little if any understanding of the Rules, he was able to amass a following of sympathetic loyalists. With such an eager following to conspire with, Orv was able to mount a "complaint marathon". Numerous amateurs conspired with Orv to concoct the appearance of "jamming", merely in order to record the events. It was from this background that my 2000 warning proceedings arose. Orv and his crowd failed to run me and my friends off the air, and some of the false complaints they submitted to the Commission may have violated Title 18 USC §1001.

Orv's failing is that he thinks he is "God's gift to amateur radio" and has an attitude of "moral superiority" that is both lacking in foundation and fact. He has repeatedly proven himself unable to moderate his biased opinions in order to be civil to those he disagrees with. Rather then moderate his behavior, he believes in "going on the attack" against anyone who disagrees with him. Orv has remained extremely resentful of me after his unsuccessful attempt in 2000 to play "boss" on 3830, and he has been spreading vile and vicious rumors about me and others ever since. Orv voluntarily quit operating on the

amateur radio after 2000, opting instead to carry on his hatred via the Internet. Only after Art Bell decided to leave the country did Orv elect to get back on the air, no doubt hoping to regain the "group leader" position.

Now that Orv has returned to lead his followers, the onslaught continues. Orv's problem is that he insists on slandering me and my friends while at the same time acting morally superior to those he defames, and he thinks nobody should be able to point out what a hypocrite he is in this regard. Thus, it simply becomes a question of whether my friends and I are going to sit by and let ourselves be slandered by Orv Dalton forever, or whether we are eventually going to say something in our own defense. This is not "jamming." Part 97 does not say that we cannot point out when a fellow ham is a complete hypocrite and full of malarkey. After all, never was "moral superiority" claimed by anyone for so little reason, and it would represent a denial of my free-speech rights to prohibit me from saying so. I am perfectly entitled to point out what a hypocrite Orv is because he insisted on placing the subject matter (his claimed "moral superiority") in issue, and Part 97 does not require me to pretend he did not.

I again told Orv a few months ago that I would voluntarily avoid him and stop discussing him on the air if he would stop bad-mouthing me, both on the air and on the internet. He wasn't interested in my offer, and even stepped up his verbal and written attacks so, as much as I would like to let matters die down, I am afraid that I am entitled and required to tender yet another verbal self-defense. I agree with you that this kind of thing is indeed becoming tedious, and there is nothing I would rather do than drop my cudgels, but that does not appear to be possible at the moment. I don't think Part 97 speaks to this at all, and since it is silent on the issue, my verbal self-defense must be permitted. I am sure that the Commission would not want to attempt, under the guise of interpreting Part 97, to second-guess my every decision as to how I should respond to such slanderous remarks. And at the very least, Part 97 does not require me to "turn the other cheek" if I do not desire to do so.

I continue to look for opportunities to get along better with Orv Dalton and his friends, but they don't seem interested. Even if I try to check into the roundtable QSO to talk to my friends by giving just my call sign, Orv Dalton and his sympathizers will try to claim I am disrupting their conversation. I am not disrupting anything. I just give my call sign and then listen, so there is no actual interference and, as we know, *actual* interference is the sine qua non of willful and malicious interference. At that point, they usually start claiming that I am "jamming" them and then they pretend that they have to go QSY or QRT because they are being "jammed" by me.

Essentially, they just don't want to share our assigned frequencies, as we are required to

do under §97.101(b). Every time they hear me on the air they concoct a "bootstrap argument" by claiming they are being "jammed," "stalked" and "harassed".

I just don't want to play their "game", nor does Part 97 require me to do so. My license says I am entitled to use any frequency within the grant of operating privileges pertaining to my license class, and I would like to take full advantage of that license grant and not cede part of my operating authority to another group of Amateurs just because they demand it.

Because they continue to advance an incorrect legal argument (that they are entitled to set aside certain frequencies on the 75-meter band for their own exclusive use), and refuse to cease advancing such a discredited position, Orv Dalton and his sympathizers should be granted no credibility whatsoever by the Commission. *"Insanity is doing the same thing over and over again while expecting a different result."* {Albert Einstein}

Part 97 does not appear to refer to anything in the nature of "harassment", much less prohibiting it [unless it rises to the level of willful or malicious interference within the meaning of 97.101(d), or one-way transmissions as defined by 97.113(b)], and I suspect that, even if it did, such an attempt would not only be constitutionally void for vagueness, but would probably also violate the First Amendment on its face. After all, one man may characterize as "harassment" that which another person would call valid and deserved criticism especially where, as in this case, the complainants have the unfortunate habit of baiting other stations by claiming "moral superiority" and then maintaining that anyone who disagrees with them is "jamming", "harassing" and "stalking" them. Part 97 simply fails to speak to this issue, so Part 97 permits me to point out how totally wrong Orv Dalton and his sympathizers are, and we amateurs will just have to work it out between ourselves, the best way we can.

Claims of on-the-air "harassment" in the amateur radio service are merely a "red herring", because if the transmissions in question don't constitute a violation of §§97.101(d) and/or 97.113(b), such claims are simply not actionable by the Commission. But let us assume, arguendo, that such an offense *did* exist under Part 97. In such a case, the Commission would be required to make a factual determination as to who commenced harassing whom. For example, if station "A" claimed station "B" was "harassing" him, the Commission would be required to determine whether, as a factual matter, station "B" really commenced the so-called "harassment", or whether he was just responding to harassment that was commenced by station "A". Therefore, if you persist in your apparent contention that I have "harassed" someone on the air, I hereby request that you send me copies of the *entire* recording(s) supporting such a claim, so that I may inquire into whether my transmissions constituted gratuitous "harassment"; merely

responded to harassment commenced by some other station; or whether they are even argumentative in nature in the first place.

I have absolutely no intention of acquiescing in the Commission's facile arguments, made in many amateur enforcement cases, that anytime anyone says anything on the ham radio that someone else doesn't like, it amounts to "harassment" and a violation of §§97.101(d) and/or 97.113(b), and if I am forced to attend a hearing before an ALJ herein, please rest assured that I will make the appropriate pre-hearing motions to clarify this issue under the Administrative Procedures Act (47 CFR, Chapter 1, Part 1) and to prevent the Commission from attempting to adduce any evidence at such a hearing concerning the non-existent offense of "harassment".

Again, I deny harassing anyone.

The complainant also alleges that my friends and I forced Art Bell to leave the United States, but this is contradicted by Mr. Bell's own statements on his radio show that he left the country voluntarily, in order to marry a Philippine national who did not wish to reside in the U.S.

So obviously the complainant does not know what he is talking about. Therefore I do not believe that item 2 discloses any violation of Part 97.

3. August 31, 2004 featured eHam.net article: "All Hams Need a Secret Jamming Location":

I am sure you appreciate that this complaint does not involve the amateur radio service. This eHam.net article is purely a creature of the Internet and has no connection whatsoever to any amateur radio operation. Therefore the complaint is irrelevant and immaterial.

This was a completely tongue-in-cheek feature article that I wrote for eHam.net, and represented merely a modest attempt to inject some sorely-needed satirical humor into amateur radio.

Likewise, my website http://hamjamming.com is also a satire of ham radio in general and of Art Bell in particular. It is an attempt to mirror, as a work of art, Mr. Bell's disingenuous, cynical, disrespectful and condescending attitude toward his audience by making it impossible for the viewer to figure out whether I am condoning jamming or not (in the same manner as Mr. Bell does on his radio show "Coast-to-Coast AM"). (Incidentally, I don't condone it.) Being disingenuous about it on my website is merely an artistic device

which I utilize to satirize Mr. Bell and his commercial radio show.

I have followed your advice, which I have read in your speeches as reported on sources such as ARRL.ORG, QRZ.COM and eHam.net, by keeping the questionable material off the ham radio and on the internet instead. I always label the "naughty" stuff on my website with an "R" rating and warning, so nobody will view or listen to it unless they want to. I don't say anything objectionable on the air because I value my license and I would like it to be issued for the normal 10-year term.

My website, as an artistic expression, is organic and protean. Another incident which shows Mr. Bell's lack of credibility in this regard is that, earlier, (when my website was largely devoted to the popularization of the song "The Too-Weird Polka" as a means of demonstrating artistically to KG6TXH that all of his antics had been done before, and that, without realizing it, he was just "re-inventing the wheel", so he might as well get down to friendly discussions with his fellow hams), Mr. Bell stupidly tried to claim that it was not my website that had reformed Mr. Wingate. But then Mr. Wingate got on the air immediately and informed Mr. Bell that my website most decidedly had been the reason why he reformed. Due to his outsized ego, Mr. Bell became quite angry when Mr. Wingate got right on the air and "in his face" this way and contradicted Mr. Bell's cherished belief that my website is a bad influence on ham radio (I have a recording of this exchange, if you would like to hear it), and I believe this was another incident that created animus on Mr. Bell's part against me, which forms part of the reason he filed his complaints, and which therefore adversely affects the level of credibility that the Commission should accord them.

Clearly, my website has been effective in improving ham radio because it addresses the jamming problem honestly by admitting that it exists, but otherwise treating it in the same cynical and sarcastic way that jamming itself is performed. As a result of this new honest approach to the jamming issue, everyone gets along well now on 3840 khz, and Mr. Wingate (with the sincere help of others) is well on his way toward becoming an A-1 operator, in my opinion. However, Art Bell is still in denial of the fact that his radio show is a bad influence on society in general, and is still looking for scapegoats within the amateur community in order to distract attention from what a public disgrace his radio show is.

Therefore I do not believe that item 3 discloses any violation of Part 97.

4. Undated typed 2-paragraph letter stamped "Received" on January 23, 2006 and (in handwriting) February 2, 2006. I believe this complaint is from Art Bell, since he is the only person I know whose wife died around this time.

I can't figure out what Mr. Bell is referring to as a "mess". Perhaps it was when his friend and defender Moody T. Law, WQ6I, called us "murderers" and tried to blame the late Ms. Bell's death on me and my friends, even though we were several hundred miles away at the time and obviously had nothing to do with it. (I have a copy of that recording, too if you would be interested in hearing it.) Apparently Mr. Bell thinks that he and his friends should be free to sally forth on the ham bands and accuse us of being "murderers", and that we must then say nothing in our own defense or we are guilty of "jamming", "stalking," "harassment", etc. I must disagree, as I see nothing of the kind contained in Part 97. As I recall the QSO, I merely defended myself verbally against such ridiculous charges, and I am proud that I did so, as any self-respecting person would be.

But since I really can't ascertain from the complaint if that is the QSO that Mr. Bell is referring to, or what he is referring to at all, I must say that, on that basis, his complaint is much too vague and fails to place me on sufficient notice concerning the actions complained of to admit of a response, and that therefore I did not violate any provision of Part 97 based on Mr. Bell's said complaint.

Since it appears that Mr. Bell is also referring to the CD that Mr. Casey sent me, I shall proceed to address that at this point.

On the CD, I first transmit at about 11 minutes, 30 seconds into the recording and am operating my station entirely properly. However, one of Orv Dalton's buddies is repeatedly playing brief recorded snippets of me saying things like how much I like jamming, and asking whether KG6TXH has "blanked his Martians." (Whatever that means. I never figured it out and never received what I consider to be a satisfactory answer.) These snippets were recordings someone made from humorous QSOs I had with Art Bell and Steve Wingate, and I believe that station is trying to make it sound like it is me who is making the transmissions.

I listened to the entire CD, and heard myself identifying properly, keeping my transmissions short and listening for the transmissions of other stations. I didn't cuss or swear, pontificate about politics, or say anything else objectionable. I kept my transmissions brief and to the point. I didn't "tune up" on frequency, or send a "test" nor did I transmit any dead carriers or make any one-way transmissions by playing recordings. Jamming is usually precipitated by an argument between two stations, but there is nothing in the CD recording to indicate that I had any arguments, or any motive at all, really, for jamming anyone. In sum, I sound like an A-1 OperaTOR, so I don't see where the CD recording discloses any violation of Part 97 by me, although plenty of other stations *are* jamming. If you think I am missing something, or failing to address any pertinent issues that appear

on the CD, please let me know and I will be glad to respond to your specific concerns. I will now respond to specific examples of jamming on the CD which I fear might be inappropriately concerning you:

The first 11 minutes or so are of someone playing a recording of Arlo Guthrie, Jr. performing the song "Alice's Restaurant". I did not transmit that. I never play music on the ham radio. Indeed, you will note that the station playing the music is stronger than I am and is covering me up on the recording. I was trying to talk over this "jammer," and I was not acknowledging him in any way, so I wasn't doing anything improper.

The intermittent jamming around 17 to 20 minutes into the recording is not me. Neither was I the station who was playing the Dr. Gene Scott recordings. Nor was it I who was talking at some length about flatulence and excrement, or who was transmitting the loud sounds of flatus, of feces falling into the toilet and of the toilet flushing. The stations playing those recordings were jamming me; I wasn't jamming anybody. (The only thing I said during this entire segment of the recording was the brief statement that I thought my flatulence has a favorable hydrogen sulfide to methane ratio, which I think is permitted by Part 97.)

Nor was it I who was talking in the weird Russian or Mexican accent, although I don't claim that that station was jamming anybody. I think he is a licensed amateur. He kept his statements relatively brief, they made sense, were humorous and represented a good-faith attempt to participate in the QSO. And he stood by for responses after he spoke like that.

Basically, on the CD recording, I am being jammed. I'm not doing anything to violate Part 97. I did make one mistake, however. I notice that about 40 minutes or so into the recording, for a short time (about 2 minutes) I inadvertently have the song "Charming Billy" by Johnny Preston playing in the background a couple of times during my brief station identifications, before I realized what was happening and took corrective action. I had the song playing on the stereo in my ham shack, and I didn't think it was that loud. Evidently my microphone was a lot more sensitive than I thought. This matter has been corrected, as I now I keep that stereo turned off unless I am monitoring my audio. I apologize for this inadvertent mistake, and sincerely hope you will not hold it against me because it was strictly accidental, I've been a ham for a long time, I try to be a good operator and I have taken appropriate corrective action.

Mr. Bell goes on to claim in his complaint that I am playing music "without any question." He just does not know what he is talking about. I don't even have a copy of the Arlo Guthrie, Jr. recording, so I couldn't play it on the ham radio even if I wanted to.

Please recall that Mr. Bell also falsely accused me of playing music containing smutty lyrics on 3840 kc on Thanksgiving Day, 2005. (I have a copy of this recording, also, if you would like to hear it.) Neither did I play this music, as Mr. Bell has alleged. I believe this was the recording which you have gone on record as labeling a "fake." Mr. Bell appears to be making some rather false and reckless allegations against a fellow amateur, which I find shocking since they come from someone who apparently fancies himself a journalist. In considering the degree of credibility to accord to Mr. Bell's complaints, please consider his established record of manufacturing "fake" evidence (possibly violating 18 USC §1001) and of making false claims of playing music, as well as his rather obvious and unexplained paranoia displayed by the complaint.

I am going to assume that you are aware that in some circles, Mr. Bell has a poor reputation for credibility, but that you don't require me to discuss it in any detail in this response. I will therefore just briefly mention several major incidents that you may find to bear upon his credibility; please let me know if you desire to have any additional information in this regard:

The Y2K Fiasco: Mr. Bell predicted on his radio show that the world was going to go to hell in a hand basket when computers couldn't deal with the number "2000." He was one of the primary popularizers of the well-known "Y2K" theory that caused a fairly substantial ripple of mass hysteria among the more gullible members of the public. When nothing of the sort occurred, however, Mr. Bell attempted to deny that he had ever fostered and promoted Y2K hysteria. He also told his radio audience that Y2K would cause a breakdown of the banking system and that they should therefore buy gold. He already owned gold at the time, and stood to gain by increases in its value due to the increased market demand that Y2K hysteria would cause.

The "Heaven's Gate" Controversy: Callers to Mr. Bell's show claimed to have photographic evidence of a "companion" space craft accompanying the Hale-Bopp comet, which they speculated was up to four times the size of the earth. Later callers claimed they had used "remote viewing" to verify the existence of the "companion". However, when the photographs proved to be fakes, and 39 members of the Heaven's Gate cult committed suicide "in order to graduate to a higher level by leaving earth in a spacecraft", Mr. Bell took steps to distance himself from the controversy by claiming he had never vouched for the "companion" evidence in the first place and that when they committed suicide the Heaven's Gate cultists knew the Hale-Bopp comet had no companion.

Bell's Denial that he is "Dumbing Down" America: Are you aware that Mr. Bell apparently believes that we can communicate with the dead; that the phenomenon of

"remote viewing" is real; etc.? Actually, it is difficult to pin Mr. Bell down as to whether or not he really believes these things, but he does give them a lot of attention on his syndicated radio show, and a lot of his fans really seem to believe them based on what they hear on his show. Although it would certainly violate Mr. Bell's free-speech rights to try to prevent him from discussing such poppycock on his radio show, the public is nevertheless entitled to inquire whether shows like Mr. Bell's promote the intellectual health of our nation. Yet Mr. Bell has been quoted as saying, "If America is getting dumber, it's not because of my program. There are a million shows like mine. It's not my responsibility."

In view of the foregoing, I believe that neither item 4 nor the CD recording discloses any violation of Part 97.

5. January 28, 2006 email referring to my vanity call application and asking that it not be granted, as in the complainant's opinion I have "ruined ham radio".

I haven't the slightest idea what the complainant is referring to, and therefore deny the allegation since it is too vague to place me on notice of the action complained of. I believe my efforts at parody and satire and my operating practices have had an overall positive effect on ham radio.

Therefore I believe that item 5 fails to disclose any violation of Part 97.

6. Undated letter (one paragraph) stamped Received on January 23, 2006:
I deny harassing or berating anyone. The complainant apparently believes that he and his friends can levy ad hominem attacks against me and my friends on the air and on the internet, and that we may not appropriately defend ourselves (verbally and on the air) against such attacks or else we thereby become guilty of "jamming," "stalking", "harassment," etc. Apparently I have been forced to disabuse the complainant of his misconceptions concerning his inexplicably-inflated ego on the air, and he is upset about it.

Part 97 does not say an amateur cannot defend himself from ad hominem attacks, and the Commission should not buy this argument for a minute. I don't drink alcohol. I don't operate my amateur station in an intoxicated condition. I haven't driven anyone off the frequency. As far as I am concerned, all licensed amateurs are welcome to use any frequency assigned to them by their license grant, and I recognize and follow my duty to share my assigned frequencies with my fellow amateurs pursuant to §97.101(b). I always try to make sure that my transmissions do not prevent anyone from saying anything they want to say. However, it does not logically follow that I have to go QSY or QRT just because another amateur *orders* me to do so.

Not only is Art Bell a public figure, but he has deliberately made himself a controversial one in the pursuit of pecuniary gain. He has placed in issue, in the public arena, the propriety of using disingenuous statements as a purported fair exercise of commercial free speech. Now that Mr. Bell has expressed his opinions, at some length and repeatedly, week after week, on the several hundred syndicated radio stations carrying his show, the public becomes entitled to react to, and discuss, Mr. Bell's actions and statements as a matter of free speech, and a fortiori because Mr. Bell is engaged in commercial speech concerning public issues.

I happen to disagree with Mr. Bell about many of the subjects he discusses on both his radio show and on amateur radio, and I am entitled under the First Amendment to say that he often doesn't know what he is talking about; that he takes contradictory positions; that he condescends to his audience and that he advances disingenuous arguments. And as a successful and articulate public figure, Mr. Bell is eminently capable of defending his motives, as he has indeed done in numerous QSOs that I have had with him. As a public figure who deliberately invites controversy with his commercial radio show, my friends and I have an absolute privilege under the Constitution to discuss Mr. Bell, his statements and his behavior, and Part 97 cannot detract from that right.

Therefore I do not believe item 6 discloses any violation of Part 97.

7. January 14, 2006 email alleging that people are hearing the jamming over the Smeter.net online receiver and urging the Commission to "bring the hammer down" on these violators.

As I am sure you are aware, most listeners to the "on-line" internet receivers are short wave listeners (SWLs), who are unlicensed individuals who have neither learned the radio theory, attained the CW proficiency nor demonstrated the other skills necessary to become licensed amateur radio operators. Therefore, an SWL's understanding of Part 97 and its requirements may well be suspect. The complaint lacks merit because it is being made on behalf of SWLs, but SWLs are not part of any of the licensed radio services which form the Commission's mandate under the Communications Act of 1934. Since the Commission has jurisdiction over neither SWLs nor the internet, I submit it would represent an abuse of its discretion for the Commission to consider whether an SWL listening on the internet was offended by my transmissions. The only issue is whether those transmissions violated Part 97.

Kindly recall that I passed my Advanced class amateur exam before a representative of the Engineer-In-Charge of the Commission's San Francisco Field Office in 1976, including a 20-wpm CW sending and receiving test, so I think I am much more familiar with

Part 97's requirements than is the complainant SWL. As a Commission licensee, I would respectfully request the Commission to confine its inquiry herein to whether any violation of Part 97 occurred, rather than whether SWLs listening on the internet might have heard something they didn't like, and I would ask the Commission to accord my denial more credibility than the allegations of a mere SWL.

I don't play music. I will sometimes put a pitch effect, distortion, reverb or echo on my audio. This is done for artistic and/or comedic reasons, and is not prohibited by Part 97 as the audio is still clearly intelligible.

I don't make racial statements against black people. In fact, I am one of the only stations on the frequency who refuses to pander and condescend to the black hams by applying a different standard of behavior to them than is applied to persons of other ethnicity. I treat everyone the same, regardless of their skin color. Moreover, I don't see where Part 97 addresses this subject at all. While I do joke around about rap music, I also make jokes about Lawrence Welk and rock music. I may make lighthearted fun of black people on occasion (for example, satirizing two young black guys on the dating scene), but I make fun of other ethnic groups as well (I'm constantly talking about how my buddies and I are too old, too bald and don't have enough money to get a date).

I'm not a racist because I simply wasn't raised that way. Mine was probably one of the only families in my hometown that wasn't prejudiced against black people. My father marched with Rev. Martin Luther King, Jr. in Selma, Alabama, and he made sure that none of his kids grew up to be prejudiced against black people, or any other ethnic group for that matter. I do make fun of my fellow ham operators sometimes, and they do the same to me, but I don't make jokes on racial grounds at their expense (although I am constantly exposed to the anti-semitic sentiments of the complainants).

Perhaps this complaint stems from the parody song I wrote and performed (off the air) entitled "I'm So Glad That My Skin Is Black", which represented an attempt to satirize the selfish, grasping motives behind much of the affirmative action movement. I don't believe that Part 97 can constitutionally derogate from my right to satirize, criticize, parody and discuss such issues, and besides, I didn't say it on the air. I kept it on the internet, as you advised us hams to do. Nothing I have said in this regard offends Part 97. Yes, I am a lawyer, but I understand that this does not violate Part 97, either.

Therefore I do not believe item 7 discloses any violation of Part 97.

8. January 28, 2005 email concerning the KABA Tee-Shirt:

This was a disingenuous "contest" to see who could "jam out" Art Bell when he went

mobile for a few days in his motor home. It was a satire of the way that Mr. Bell would constantly try to get comparative signal strength reports *vis-a-vis* other stations every time he went anywhere in his motor home. He was always trying to prove that his signal was stronger from his motor home than everybody else was from their fixed station locations. Everybody knew it was a joke, and therefore nobody actually tried to jam Mr. Bell as a result of it. No tee-shirts were ever printed, nor were any ever claimed or awarded. Mr. Bell was well able to transmit on 3840 khz during his motor home trip and, indeed, monopolized the frequency during his travels. Nobody, including myself, objected to his doing so or tried to jam him, that I am aware of. I most certainly didn't do so.

In brief, Mr. Bell's failure to have a sense of humor about the non-existent "KABA Tee Shirt" does not give rise to a violation of any provision of Part 97.

9. January 1, 2006 email, the first line of which reads "Thanks. I appreciate the heads up. Don't be concerned at all."

Although you have redacted the complainant's identity, he appears to be Art Bell. He is convinced that Jim Watkins, KI6GU "now considers [him] an enemy", and he appears paranoid that someone is going to commit a trespass to, and/or damage, his property, although he fails to explicate any reasons for feeling this way except that Mr. Watkins is "the enemy". However, I participated in the QSO that Mr. Bell is referring to, and so did Mr. Bell (I don't understand why his audio has apparently been edited out). Mr. Watkins and Mr. Bell had a disagreement because Mr. Watkins had played on 3840 khz the "dry" version of a commercial "voice-over" that he had recorded on behalf of the Saddle West Casino for Mr. Bell's FM station, KNYE. Of course, nothing in Part 97 prohibits Mr. Watkins from playing such a recording, so long as it is neither a one-way transmission nor willful or malicious interference, which it was not because the rest of us on the frequency had asked Mr. Watkins to play it. Mr. Bell then complained that KI6GU shouldn't have played the "voice-over" because he (Bell) owned all the rights to it, but Mr. Watkins proceeded to explain how Mr. Bell was wrong about that (i.e., Mr. Bell's rights attached only to the "wet" version) and then Mr. Bell dropped that argument but instead started claiming that for KI6GU to play the voice-over would somehow endanger his commercial broadcast license for his FM station KNYE. Mr. Bell eventually dropped that argument, too, when everybody made fun of how nonsensical it was. It seemed to me at the time that Mr. Bell was acting paranoid for some reason, but of course I would have no idea why he was acting this way because I know nothing about his personal life. It just makes no sense to me that Mr. Bell would get all upset just because Mr. Watkins played the dry version of the voice-over, and I submit that it won't make any sense to you, either.

Furthermore, Mr. Bell claims in this complaint that he did not participate in the QSO but, as explained above, that is not true. Please also consider this fact in determining the degree of credibility to accord to this complaint from Mr. Bell.

I suspect this recording has been assembled from a number of shorter ones, as Mr. Bell has done in the past and as you have recognized as being "fake", and if indeed the recording does not contain any transmissions by Mr. Bell then he has simply removed them. Mr. Bell has entirely failed to explain why he is so paranoid as to think that someone is going to damage his property and that Mr. Watkins is "the enemy". It is rather obvious that Mr. Bell was not thinking clearly when he wrote this complaint, and it should be given no credence by the Commission.

I can't determine what Mr. Bell is complaining about. The complaint seems to be directed at Mr. Watkins, not at me. But Mr. Watkins wasn't doing anything to violate Part 97, so I have no notice of what provision of Part 97 is alleged to have been violated by anyone.

Therefore, I deny any violation of Part 97 based on this email.

10. December 30, 2005 email which says, "I will be sending more but here is a bit of N6AYJ".

Again, I can't determine what the complainant is talking about, so I have no notice of what provision of Part 97 is alleged to have been violated.

Therefore, I deny any violation of Part 97 based on this email.

11. December 19, 2005 email referring to my website.

This is discussed above. My website is a prime example of good amateur practice, as well as of artistic and comedic license. Yes, it is disingenuous, but so is Art Bell. If Mr. Bell has the right to use the commercial airwaves to be disingenuous for profit, then of course it follows that I have the right to be disingenuous on the internet for non-commercial and non-pecuniary purposes. I am following your advice to keep the controversial stuff on the internet and off ham radio. Certainly you can't consider this to constitute a violation of Part 97, since I am doing exactly what you told me to do.

12. November 24, 2005 email which starts out, "Here is last night, really Thanksgiving", apparently from Art Bell, although the complainant's name has been redacted.

As I explained earlier, I was not playing any music. Mr. Bell falsely accused me of that. I never play music. I don't have, and have never had, copies of the recordings in question. I don't recall any sick animals being on the frequency, and I certainly didn't torture any. Please recall that the accompanying tape was the one as to which you have gone on record, declaring it to be a "fake". Mr. Bell is likening Steve Wingate to a "sick animal". He accuses others of "torturing" Mr. Wingate, but he fails to mention that he urged his buddies to run Mr. Wingate off the frequency by any means necessary, and he condoned and supported it when they tried to do so. [This is the same thing that Orv Dalton attempted to do, resulting in my 2000 Warning Notice proceedings. This type of amateur appears to be encouraged by the Commission's failure to come out in support of §97.101(b) by requiring amateurs to properly share their frequencies.]

Now Mr. Bell is trying to act as if he is completely innocent in the matter, but nothing could be further from the truth. Mr. Bell went out of his way to stir up trouble with Mr. Wingate, to harass him every time he heard him on the air, to try to force other people not to talk to him, and to threaten them that if they did talk to Mr. Wingate they would become personae non grata on the frequency.

Now after causing Mr. Wingate all this trouble and suffering, Mr. Bell thinks he is acting like a "sick animal". Well, it is largely Mr. Bell's fault if he is.

I don't believe that any violation of Part 97 is made out by this complaint filed by Art Bell.

13. September 7, 2003 email which starts out, "Riley, billy's (N6AYJ) at it again!"

There appear to be two complainants. They state that they and their buddies are going to hire a lawyer to sue me if the FCC doesn't do what they want it to [apparently they haven't heard about Commission pre-emption of the entire field of amateur radio regulation under cases such as Gagliardo v. U.S. 366 F.2d 720,723 (9th Cir., 1966) and In re 960 Radio, Inc. FCC 85-878 (October, 1985)]. The complainants go on to state that if the Commission can't stop me from "jamming," then they threaten to conduct a "Jamming free-for-all on any frequency we want and at any time we want". Then the complainants propose to do a "field trip" to my QTH, presumably to do something illegal to get me off the air; and to file complaints with the California State Bar if I don't do what they want.

I think their own statements show the complainants' unreasonableness, animus and lack of veracity. They are dogmatic "true believers" who wear "ideological blinders" and therefore see only their perverted version of the "truth", insist that the government implement their particular vision of what ham radio should be, and to hell with any other

taxpaying ham's opinion. They appear to believe that they have the right to violate Part 97 by jamming anyone they disagree with because they are "morally superior" to the stations with whom they propose to interfere during their "jamming free-for-all". Obviously the Commission should deem such complainants to have no credibility whatsoever. And again, the complaint is completely vague so I have no idea what specific actions of mine they are complaining about. Therefore I have no notice as to which section of Part 97 it is alleged that I violated.

Therefore, I deny that any violation of Part 97 is demonstrated by this email.

14. A 2-page handwritten letter dated June 28, 2003 alleging essentially that I used an audio processor to make my voice bassy.

That is true; however, my speech was nevertheless clearly intelligible, as the complainant appears to admit; otherwise he wouldn't have known against whom to complain. This is not prohibited by Part 97. Then he complains that I interfered with a phone patch being run by W6EZV and KI6GU. That is patently ridiculous because I do not "jam" or cause willful or malicious interference. We may have been swapping quips during the phone patch; we did that a lot. The phone patch was meant to be free-form, amusing and entertaining to the callers so they would not think ham radio was too boring. In order to make it more interesting, we would continually make jokes during the phone patch. The complainant mistook the jokes for interference.

Significantly, neither W6EZV nor KI6GU complained about my "interfering" with their phone patch. I don't think the complainant knew what was really happening, and therefore no violation of Part 97 occurred. If you have any doubts about whether or not I have ever "jammed" any of their phone patches, I suggest that you ask Mr. Watkins or Mr. Sousa about it. I submit they will tell you that I have never done so.

Is the complaint based on the fact that VR2HF called into the phone patch from Hong Kong and I asked him if it was very hard to pick up girls there? I don't think that is prohibited by Part 97.

15. 2-page email dated April 22, 2006 beginning, "I am an Extra-Class operator", asking that my vanity call sign license grant be set aside under 47 CFR 1.115.

Again, the complainant does not believe that I have the right to operate on 3943 kc. I tried to check into the roundtable by just giving my call sign. But the complainant and his buddies tried to pretend that I was somehow preventing them from continuing to operate on the frequency.

This represents the most rank form of "bootstrap argument". They simply don't want to share the frequency, as they are required to do, and they want to unilaterally limit my operating privileges in contravention of my license grant. In short, Part 97 does not require that I cooperate with such foolishness. I am *entitled* to operate on 3943 kc, and I *wish* to do so.

If they start casting aspersions at me, then I am entitled to defend myself. If that does become necessary, I generally confine myself to making jokes about how, for no discernible reason, they consider themselves to be morally superior to other hams. Then they take offense at this and file complaints against me.

The answer is for them to share the frequency, as they are supposed to do, and to realize that their belief in their "moral superiority" obviously stems from severe psychological insecurity rather than having any basis whatsoever in fact. There is no reason for them to change frequencies, as no one is preventing them from communicating on 3943 kc, but they pretend they have to QSY in order to build up their "bootstrap argument."

As you can see from the complaint, they don't want me to operate on 3840, 3847 or 3943 kc. What right have they to make such demands? Surely the Commission is not going to let a bunch of petty would-be tyrants dictate a veritable list of frequencies on which other hams cannot operate! All stations have the same rights under Part 97, and no station may arrogate unto itself the right to dictate on which frequencies other hams may be permitted to operate.

In our correspondence back in 2000, you took the position that I "should not go where I am not wanted", but I don't think your statement identifies the correct issue. The real point is, my license grant gives me the privilege to use the frequencies in question and §97.101(b) requires us to share the frequencies, so why are the complainants unwilling to share them? They already have a list of at least 4 frequencies they don't want me to use, and accuse me of "jamming" if I use them. How many more frequencies will they have to insist on setting aside for their own exclusive use before the Commission will admit that they are violating §97.101(b)?

I don't normally identify my station as "World's Biggest Jammer" because it is rather unnecessarily provocative to do so, as well as being somewhat trite. It tends to make other amateurs upset when I do that, and I don't want to gratuitously upset other hams because I want to make civil conversation with them in our QSOs. Occasionally I will joke around that I am the "Water Buffalo Jammer" (K6UEY looks very much like a water buffalo, in my opinion), but normally I just identify with my call sign, without any phonetics at all.

Clearly, no violation of Part 97 appears from item 15.

16. April 29, 2006 email with the subject: "Emailing: 3946 kc".

Notice that it doesn't state any complaint against me because I did nothing wrong! Clearly Orv and his buddies want to ban me from yet another frequency. When I gave my call sign on 3946 kc, they went QSY to 3760 kHz, claiming I "jammed" them on 3946. They had concocted a plan whereby they would try to get me mad when they prevented me from entering the roundtable QSO on 3946 by claiming I was "jamming," and then go QSY to 3760 in hopes that I would follow them down there, in violation of my Advanced-class license operating privileges. Of course, I did not do so.

I would never do such a thing, even though the Advanced class test was much harder when I took it in 1976 than the Extra-class test is now, and the question pools weren't available then, so you actually had to learn the material rather than just memorize the answers. Also, in 1976 I passed a 20-wpm CW sending and receiving test administered by a representative of a Commission Field Office's Engineer-In-Charge, although the code test today is a mere 5 wpm, and receiving only, at that. But even though I am clearly much more highly technically qualified than these "Extra-lite" complainants, I would never use such an improper rationale to justify violating the operating privileges of my Advanced class license because I value my amateur license and I respect Part 97 too much to do that.

The real significance of such complaints is that, if you were to rule in the complainants' favor, they will proceed to go up and down the 75-meter band declaring frequency after frequency off-limits to W6WBJ and anybody else they don't happen to like. This is not the law, and the Commission should not countenance such an improper and misleading argument. I therefore respectfully request that the Commission rule on the correct side of the issues, and not permit itself to be misled by the complainant's unsubstantiated allegations.

The Commission needs to give the lie to the complainants' motto, "Jam a jammer; that's not jamming." I don't think I have to recite the sorry history of hams who demanded FCC enforcement, only to themselves face adverse Commission action after being DF'd while they were "jamming the jammers". [See, for example, FCC v. Donald Gilbeau, PR Docket Nos. 81-172 & 173. Mr. Gilbeau, formerly N6OZ (call since re-issued to another individual), was then the President of the Stockton, Calif. Amateur Radio Club and a veritable pillar of the amateur community. Agents from the San Francisco Field Office caught him dead carrier jamming on a San Francisco bay area 2-meter repeater, and he admitted it when his station was inspected. He later decided to fight his case, and began

claiming the jamming was accidental, but the Commission and the Review Board found he had not the character qualifications to possess an amateur license, not only because of the original jamming, but also because he had lied to the Commission.] Some of these same complainants and their friends are now jamming me and my friends on 3840 and 3943, and to hear them talk they seem to think they have the Commission's blessing in doing so.

To make matters worse, the FCC Review Board has previously ruled that even harassment does not justify retaliating with willful or malicious interference (David B. Hodges, N3DTH, 89 FCC Record 8692), but the Commission staff, from my perspective at least, doesn't seem to be implementing that policy.

If the Commission fails to resoundingly reject the complainants' arguments, the jamming problem will get worse because cynicism within the amateur community will increase, since the Commission would thereby be creating a "two tier" system of regulation under which some hams get special rights, including the right to jam other hams, even though Part 97 says that all amateur stations have equal rights.

Therefore it is clear that no violation of Part 97 appears from email No 16.

17. Email dated April 29, 2006 with the subject "Complaint".

Everybody wanted to hear what Art Bell had said on his recent radio shows about the death of his late wife and how he began emailing his new "bride" 4 days after his late wife's funeral. The complainant and his buddies accused me of lying when I simply reported what Mr. Bell said on his radio show what he had done, and they challenged me to play the recordings to prove what I said was correct. They didn't seem to think I actually had the recordings of Mr. Bell's show in order to support my statements, but I did!

So, I did just as they requested by playing the recordings for them, but they complained when I did that, too. When the recordings did bear out what I claimed Mr. Bell had said, the complainant and his buddies resorted to accusing me of jamming them. (Apparently you just can't please people like this, however hard you try to cooperate. Perhaps you have noticed this, too.) But there was no interference because I played the recordings at the specific instance and request of the complainant, who thereby consented to my playing them. They were rather brief in duration. Nobody was prevented from saying anything they wanted to say, so there was no actual interference. As I recall, it was the unanimous desire of all the stations on the frequency that I should play the brief recordings. (I always inquire if any stations on the frequency object before I play a

recording, and if anyone does object, I don't play it because I don't want to be guilty of interfering with anyone.)

After I played the brief recordings, I stood by to hear the reaction and everybody discussed what Mr. Bell had said he had done. I was not aware that anyone objected to the discussion, and the complainant certainly didn't get on the air and say so at the time. I was entitled to play the recordings in order to defend my reputation for veracity, which was under attack at the time by the complainant and his comrades. No interference occurred because no other stations objected to it and because, indeed, the other stations on the frequency unanimously desired me to play them.

No violation of Part 97 occurred because Part 97 does not prohibit the playing of such brief recordings, as long as they are neither one-way transmissions nor willful and malicious interference which, as explained above, these most certainly were not.

18. Email dated April 20, 2006 with the subject: "Violations (Include Copyright Infringements (sic)".

I never play any music on the air. Sometimes I will play brief snippets of Phil Hendrie mocking Art Bell. This is a fair use. When I play such brief recordings, it is intended as a satire, or commentary, on Mr. Bell and his hijinks, and thus communicates a form of protected free speech. I never play such recordings unless it is specifically requested by another station or unless it is sent as a brief form of CQ. (Of course I am sure you realize that Part 97 does not prescribe any particular manner or method of calling CQ, which means that it can be done by playing a recording if done in good faith; i.e., is appropriately brief; the intent to seek a contact is clearly evidenced; a proper identification is given with the CQ call; and the station calling CQ actually listens for responses.)

Again, no violation of Part 97 occurred because, as explained in the response to Item No. 17, Part 97 simply does not prohibit the playing of such brief recordings, as long as they are neither one-way transmissions nor willful and malicious interference, which these were not.

I must also deny that any violation of Part 97 is raised by any of the complaints or the CD recording on the basis that they do not appear to have been prepared by members of the Commission's staff or Official Observers, as is required for a foundation for the admissibility of the complaints and recording to exist under Title 47 U.S.C. §154(f)(4), subparagraphs (a) and (b).

I further believe and assert that Commission action is, or may be, foreclosed by expir-

ation of the applicable statute of limitations, 47 USC §503(b)(6)(b) [i.e., one year from the event giving rise to the claimed violation].

In closing, since I have not violated Part 97 in any respect, there clearly exists neither a legal nor a factual basis for the Commission to find that renewal of my Advanced class license for a full 10-year term would not suit the public interest, convenience and necessity. Accordingly, §309(a) of the Act (47 USC §309) requires that my application for a 10-year renewal be granted in full.

I welcome you to park a monitoring van outside my house (as one of the complainants suggests) whenever you desire, because you will not hear anything violating Part 97 emanating from my station.

I hope this response has resolved all of the complaints in my file, but if not, please advise me what still concerns you and I will try to address those concerns. Please re-issue my present license for amateur station W6WBJ for a full ten-year term. I sincerely hope it will not be necessary for me to file a petition for reconsideration, or for you to designate my case for hearing before an ALJ in this matter.

I look forward to receiving your reply.

Yours very truly,

WILLIAM F. CROWELL

WFC:wfc

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Spectrum Enforcement Division
1270 Fairfield Road
Gettysburg, Pennsylvania 17325-7245

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
September 20, 2006

William F. Crowell
1110 Pleasant Valley Road
Diamond Springs, CA 95619

RE: Amateur Radio Advanced Class W6WBJ; Renewal Application
Case # 2006-176

Dear Mr. Crowell:

By letter dated May 15, 2006, we notified you that the Wireless Telecommunications Bureau granted in part your application for vanity call sign W6WBJ but, due to numerous complaints filed against the operation of your station N6AYJ alleging deliberate interference, did not renew your license beyond the existing expiration date of March 12, 2007. Our letter further stated that the matter was referred to the Enforcement Bureau for review and that the issues raised in the complaints forwarded to you must be resolved in order for your license to be renewed.

We have reviewed your response. The issue of renewal of your license has been referred for designation of a hearing to be held before an Administrative Law Judge in Washington, DC. As an applicant, you will have the burden of proof in showing that you are qualified to retain an Amateur license. Under separate cover you will be sent further information about the hearing.

Sincerely,

W. Riley Hollingsworth
Special Counsel

Cc: FCC Western Regional Director

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Spectrum Enforcement Division
1270 Fairfield Road
Gettysburg, Pennsylvania 17325-7245

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
April 3, 2007

William F. Crowell
1110 Pleasant Valley Road
Diamond Springs, CA 95619

RE: Amateur Radio Advanced Class W6WBJ; Renewal Application File #0002928684
Case # 2006-144

Dear Mr. Crowell:

By letter dated May 15, 2006, we notified you that the Wireless Telecommunications Bureau granted your application for vanity call sign W6WBJ but, due to numerous complaints filed against the operation of your station (under call sign N6AYJ) alleging deliberate interference, did not in advance renew your license beyond the expiration date of March 12, 2007. Our letter further stated that the matter was referred to the Enforcement Bureau for review and that the issues raised in the complaints forwarded to you must be resolved in order for your license to be renewed.

On September 20, 2006, we informed you that after reviewing your response to the complaints, the issue of renewal of your license would be referred for a hearing, and that under separate cover you would be sent further information about the hearing.

However, you filed the above renewal application on February 28, 2007, and it has been referred by the Wireless Telecommunications Bureau for review based upon continuing complaints of deliberate interference, including repeated interruptions of ongoing communications and other complaints regarding character qualifications. This is to inform you that we are reviewing those complaints and may need additional information from you in order to make a determination regarding a renewal hearing. Since your application was timely filed, you have continuing authority to operate W6WBJ until this matter is resolved.

Sincerely,

W. Riley Hollingsworth
Special Counsel

cc: FCC Western Regional Director

CERTIFICATE OF SERVICE

Pamela S. Kane certifies that she has on this 29th day of March, 2017, sent copies of the foregoing "ENFORCEMENT BUREAU'S RESPONSE TO *ORDER*, FCC 17M-11" via email to:

The Honorable Richard L. Sippel
Chief Adminstrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554 (by hand, courtesy copy)

Rachel Funk
Office of the Adminstrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554 (by hand, courtesy copy)

William F. Crowell
1110 Pleasant Valley Road
Diamond Springs, CA 95619
retroguybilly@gmail.com

Pamela S. Kane